

*Statement of Craig A. Kasper
Chief Executive Officer, Hull & Associates, Inc.*

*on
"The Ohio Experience:
What Can Be Done to Spur Brownfield Development in America's Heartland?"*

*before the
U.S. House of Representatives
Committee on Government Reform
Subcommittee on Federalism and the Census*

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Mr. Chairman and honorable members of the Subcommittee, thank you for the opportunity to testify about the issues affecting brownfield development in Ohio and what opportunities exist to encourage redevelopment activity. I am Craig Kasper, CEO of Hull & Associates, Inc., and the firm's Urban Revitalization and Conservation Practice Leader. Our firm is proud to assist clients in building stronger economic futures for their communities and improve the quality of life for the people who live there by using sound environmental guidance when transforming neglected or abandoned property into viable real estate. Hull has gained respect in the field of brownfield redevelopment based on our reputation as a diverse team of experts in the areas of economic development, site assessment and remedial planning, risk assessment, remedial construction services, funding and planning, and public relations. As a firm, we continue to support sound policy changes at the state and federal level that create opportunities for brownfield redevelopment incentives and encourages environmental cleanup and economic development in areas where it is most needed.

Today, you will hear testimony on many different issues affecting brownfield redevelopment from a variety of skilled stakeholders with significant experience in the brownfield arena. I would like to focus my testimony on the following three areas:

1. The lack of funding with many communities to conduct the upfront assessments to accurately quantify the cost of cleanup and environmental risks at brownfields;
2. Impediments to brownfield redevelopment that can result from inconsistencies in regulations between federal, state and individual cleanup programs; and,

3. Funding programs that could provide money for environmental liability insurance and demolition in addition to cleanup and assessment.

Impediments to Brownfield Redevelopment

There are a number of barriers to successful brownfield redevelopment, many of which are not unique to Ohio or the Midwest. In fact, many of the impediments we see in the Midwest are similar to those experienced nationwide. These road blocks include financing issues and costs for environmental assessment, cleanup and demolition; liability concerns; the attractiveness of agricultural land or green space versus brownfield redevelopment; funding availability in the form of grants versus loans; and the sometimes conflicting requirements of state and federal regulatory programs.

Lack of Funding to Quantify Remediation Costs

Many brownfields continue to sit vacant and idle because potential developers do not understand cleanup costs and the property's associated liability risks. While many states, including Ohio, have implemented some administrative remedies for liability, such as Covenants Not to Sue through the state's Voluntary Action Program once a property is cleaned up, the issue of accurately quantifying the inherent risks and remedial costs is still a significant hurdle in brownfield redevelopment.

In order to accurately quantify remedial costs, adequate assessment of these properties must be completed. However, many communities cannot afford the upfront assessment activities to adequately understand the remedial costs. Unless the real estate value of the brownfield property outweighs the cost of assessment, remediation, and infrastructure improvement – in other words the low hanging fruit – most of these properties carry upside down pro formas and become speculative developments. This can make developers hesitant to invest sometimes significant funds early on to understand the environmental issues of impaired sites which they would not incur in greenfield areas. Without accurately understanding the cleanup costs and uncertainties of brownfields, it is difficult for sellers, purchasers, lenders and the community to proceed expeditiously and comfortably with redevelopment. Ohio has been successful at attracting U.S. EPA Brownfield Assessment grants, and our own Clean Ohio Assistance Fund has been used many times to provide funding for assessments. However, the competition for these funds is fierce given that the needs significantly outweigh those sources. Consideration should be given to allow entities who ultimately cleanup a property in accordance with an approved state program to offset not just the remedial dollars, but the assessment dollars with financial incentives, including tax credits.

Inconsistencies in Federal and State Cleanup Programs

While many states, including Ohio, have developed cleanup programs to cost-effectively remedy brownfield sites, there is still a great deal of overlap and conflict between federal regulations and other cleanup programs. In Ohio, we struggle with the acceptance of the state's Voluntary Action Program (VAP) versus the federal Memorandum of Agreement (MOA). For example, in Ohio, a volunteer who chooses to remediate a brownfield must go through an arduous administrative process to gain federal acceptance on a well-done cleanup, even though the state would have accepted the work with fewer administrative hurdles. In certain instances, federal funding, such as brownfield revolving loan funds, requires the more administratively burdensome federal process – many times causing a time conflict with the scheduled redevelopment. Requiring brownfield redevelopments to go through the federal MOA process to acquire new funding, such as tax credits, may not accomplish the goal of encouraging more brownfield redevelopment because of issues associated with cost and timing.

In addition, inconsistencies between different cleanup programs can result in cleaning up the same chemical at the same property to different standards resulting in increased costs with no added environmental benefit. Without closing these loopholes and eliminating the administrative hurdles between cleanup programs, the remediation process continues to remain costly and uncertain.

Funding for Demolition and Environmental Insurance

Finally, as we have seen in Ohio with our own Clean Ohio Fund projects, demolition of old structures can be just as costly as the environmental cleanup at a brownfield. In addition, almost every project I have been involved in over the last several years looks to environmental insurance as a means of transferring the risks inherent to these contaminated properties. The cost of demolition and procuring environmental insurance should be given equal importance to remediation when defining eligible costs in any funding program.

Incentives to Encourage Brownfield Redevelopment Activity

The issues I have just discussed are only a few with which all stakeholders struggle when redeveloping brownfields. Here in Ohio, we are fortunate to have probably the best brownfield cleanup and financial incentive program in the country in the Clean Ohio Fund. The program – created by House Bill 3 and approved by voters as Issue 1 in November 2000 – consists of four competitive funding programs totaling \$400 million. The funds from these programs are used to preserve green space and farmland, establish recreational trails, and revitalize blighted neighborhoods by cleaning up and redeveloping polluted properties.

Since 2002, the Clean Ohio Revitalization Fund has provided \$76,555,992 for 35 projects around the state, and an additional 29 projects have been funded for \$9,646,875 through the Clean Ohio Assistance Fund. While the Clean Ohio Fund is an outstanding example of programmatic incentives available at the state level, other opportunities, through avenues such as federal tax credits applied to investments in site assessments, cleanups and demolition, are viable options the subcommittee may want to weigh during its investigation of ways to encourage redevelopment activity.

More than 20 states already use some form of tax incentives to encourage brownfield reuse; additional federal incentives could enhance these programs and provide additional resources to promote economic development and reinvestment opportunities in blighted areas. In addition, tax incentives that focus specifically on environmental cleanup of contaminated properties – when coupled with other economic development tools – have the ability to generate renewed interest in brownfield versus greenfield development. Furthermore, developing tax or other financial incentives that would provide a funding tool to help cover the costs associated with assessment, securing environmental liability insurance and conducting demolition could go a long way toward promoting and encouraging new brownfield development in critical regions of Ohio and the Midwest. Without these tools, many former industrial towns and cities will continue to sit on the sidelines, faced with the blight associated with brownfield properties while struggling to find financial incentives that could help jumpstart new economic growth and redevelopment in their communities.

In conclusion, while there are challenges to overcome in encouraging additional interest and investment in brownfield activity, some of these issues are currently being addressed in limited forms at the state or local level. I believe Ohio is a frontrunner in implementing programs that motivate brownfield redevelopment – but as successful as Ohio is, the resources do not scratch the surface of the legacies created from our industrial heritage. Through greater federal investment – whether through financial incentives or working toward streamlining brownfield programs by eliminating overlaps and inconsistencies between state and federal regulatory requirements – the potential for additional brownfield redevelopment opportunities in Ohio and the Midwest increases. This additional federal support and attention to the brownfields issue could sustain the work already underway at the state level, and could provide for the expansion of some of the quality cleanup and economic development programs currently in place.

I thank you for the opportunity to testify before you today, and I'd be happy to answer any questions you may have.